CPMG / KA / BG-GPO/13/2003-2005

ವಿಶ್ವಮಾನವ ವರ್ಷ



ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೩೯	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಏಪ್ರಿಲ್ ೮, ೨೦೦೪ (ಚೈತ್ರ ೧೯, ಶಕ ವರ್ಷ ೧೯೨೬)	ಸಂಚಿಕೆ ೧೫

ಭಾಗ - ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 11 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 5ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 23.12.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1 ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ The Railway Protection Force (Amendment) Act, 2003 (52 of 2003) ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)
New Delhi, the 23rd December, 2003/Pausa 2, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 23rd December, 2003 and is hereby published for general information:-

THE RAILWAY PROTECTION FORCE (AMENDMENT) ACT, 2003
No. 52 of 2003
[23rd December , 2003]

An Act further to amend the Railway Protection Force Act, 1957

Be it enacted by Parliament in the Fifty-fourth year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Railway Protection Force (Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Amendment of long title.- In the Railway Protection Force Act, 1957 (23 of 1957) (hereinafter referred to as the principal Act), in the long title, for the words "railway property", the words "railway property, passenger area and passengers" shall be substituted.

3. Amendment of section 2.- In section 2 of the principal Act, after clause (c), the following clauses shall be inserted, namely:-

"(ca) "passenger" shall have the meaning assigned to it in the Railways Act, 1989 (24 of 1989);

(cb) "passenger area" shall include railway platform, train, yard and such other area as is frequently visited by passengers;

4. Substitution of new section for section 11.- For section 11 of the principal Act, the following section shall be substituted, namely:-

"11. Duties of members of Force.- It shall be the duty of every superior officer and member of the Force-

(a) promptly to execute all ordres lawfully issued to him by his superior authority;
(b) to protect and safeguard railway property, passenger area and passengers;
(c) to remove any obstruction in the movement of railway property or passenger area; and
(d) to do any other act conductive to the better protection and security of railway property, passenger area and passengers."

5. Amendment of section 12.- In section 12 of the principal Act, for the words "railway property" wherever they occur, the words "railway property, passenger area and passengers" shall be substituted.

6. Amendment of section 14.- In section 14 of the principal Act, for the words "to a police officer", the words "to a police officer together with a detailed report of the circumstances leading to the arrest of such person" shall be substituted.

T.K. Viswanathan
Secy. to the Govt. of India.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಎಲ್. ಸಿದ್ದಯ್ಯ
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR-60

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 69 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 5ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 10.12.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O. 1408 (E) [Notification No. F. No. NHAI/Tech/LA/NS-24/Railway embankment dated 10.12.2003] ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
NOTIFICATION
New Delhi, the 10th December, 2003

S.O. 1408(E).- Whereas by the notification of the Government of India in the Ministry of Road Transport and Highways, number S.O. 999 (E), dated the 29th August, 2003 (said notification), issued under sub-section (1) of section 3A of the National Highways Act, 1956 (48 of 1956) (hereinafter referred to as the said Act), and published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (ii), dated the 29th August 2003, the Central Government delcared its intention to acquire the land specified in the Schedule appended to the said notification for the public purpose of building (widening) of National Highways No. 7 in the land stretch from KM. 550 and falling Km. 11/11 (between Yelahanka and Channasandra stations of Hyderabad - Bangalore Section) in the State of Karnataka;

And whereas the substance of the said notification has been published in newspapers on 14th September 2003 Deccan Herald and Kannadaprabha.

And Whereas no objections have been received by the competent authority from any person on the use of the land, for the purpose mentioned in the said notification;

And Whereas in pursuance of sub-section (1) of section 3D of the said Act, the competent authority has submitted its report to the Central Government;

Now, therefore, upon receipt of the said report and in exercise of the powers conferred by sub-section (1) of section 3D of the said Act, the Central Government hereby declares that the land specified in the Schedule annexed hereto should be acquired for the aforesaid purpose;

And further, on the publication of this notification in the Official Gazette, the land specified in the Schedule annexed hereto shall vest absolutely in the Central Government free from all encumbrances under sub-section (2) of section 3D of the said Act.

SCHEDULE

Brief description of land to be acquired for the embankment for the Railway Track at Km. 550 and at Km. 11/11 between Yelahanka and Channasandra stations of Hyderabad-Bangalore Road on the National Highways.

District-Bangalore Urban **Taluk-Bangalore North (Additional)**

Sl. No.	Name of the village	Type of land	Nature of land	Survey number	Area of land in square metre	Name of the land owner
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Yelahanka	Private	Garden	140	4000	Y.M. Jayanna Y.M. Nanjappa
		Private	Garden	141	3500	Thalavara nowkari enam Y.M. Najappa Y.M. Jayanna Y.M. Ramanna Y.M. Rangaswamappa
		Private	Dry	142	1100	Nahasab K. Mugeer Ahamed K. Shareel Ahamed Abdul Khadir H.N. Abdul Ahamedajan Abdul Ahamed
2	Shivanahalli	Private	Dry	45/1	700	M. Ram Prasad J.M. Jaya Prakash J.M. Divakar
		Private	Dry	45/2A1	1200	Jayamma
		Government	Tank	48	9100	State Government of Karnataka

[F. No. NHAI/Tech/LA/NS-24/Railway embankment]

A.V. Singh, Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

PR-61

ಎಲ್. ಸಿದ್ದಯ್ಯ

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 14 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 8.05.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Prevention of Insults to National Honour (Amendment) Act, 2003 (Act No. 31 of 2003) ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE PREVENTION OF INSULTS TO NATIONAL HONOUR (AMENDMENT) ACT, 2003

An Act to amend the Prevention of Insults to National Honour Act, 1971

Be it enacted by Parliament in the Fifty-fourth year of the Republic of India as follows:-

1. Short title.- This Act may be called the Prevention of Insults to National Honour (Amendment) Act, 2003.

2. Amendment of section 2.- In section 2 of the Prevention of Insults to National Honour Act, 1971 (69 of 1971) (hereinafter referred to as the principal Act),-

(a) for the words "otherwise brings", the words "otherwise shows disrespect to or brings" shall be substituted;

(b) after Explanation 3, the following Explanation shall be inserted, namely:-

Explanation 4.- The disrespect to the Indian National Flag means and includes-

(a) a gross affront or indignity offered to the Indian National Flag;

or

(b) dipping the Indian National Flag in salute to any person or thing;

or

(c) flying the Indian National Flag at half-mast except on occasions on which the Indian National Flag is flown at half-mast on public buildings in accordance with the instructions issued by the Government; or

(d) using the Indian National Flag as a drapery in any form whatsoever except in State funerals or armed forces or other para-military forces funerals; or

(e) using the Indian National Flag as a portion of costume or uniform of any description or embroidering or printing it on cushions, handkerchiefs, napkins or any dress materials; or
(f) putting any kind of inscription upon the Indian National Flag; or
(g) using the Indian National Flag as a receptacle for receiving, delivering or carrying anything except flower petals before the Indian National Flag is unfurled as part of celebrations on special occasions including the Republic Day or the Independence Day; or
(h) using the Indian National Flag as covering for a statute or a monument or a speaker's desk or a speaker's platform; or
(i) allowing the Indian National Flag to touch the ground or the floor or trail in water intentionally; or
(j) draping the Indian National Flag over the hood, top and sides or back or on a vehicle, train, boat or an aircraft or any other similar object; or
(k) using the Indian National Flag as a covering for a building; or
(l) intentionally displaying the Indian National Flag with the "saffron" down.'

3. Insertion of new section 3A.- After section 3 of the principal Act, the following section shall be inserted namely:-

"3A. Enhanced penalty on second an subsequent convictions.- Whoever, having already been convicted of an offence under section 2 or section 3, is again convicted of any such offence shall be punishable for the second and for every subsequent offence, with imprisonment for a term which shall not be less than one year."

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಕೆ. ನೀಲಕಂಠಚಾರ್

PR-63

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ)
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 16 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 12.09.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Central Vigilance Commission (Amendment) Act, 2003 (Act No. 45 of 2003) ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE CENTRAL VIGILANCE COMMISSION ACT, 2003
ARRANGEMENT OF SECTIONS
CHAPTER I
PRELIMINARY

Sections

CHAPTER V
MISCELLANEOUS

THE CENTRAL VIGILANCE COMMISSION ACT, 2003
An Act

to provide for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government and for matters connected therewith or incidental thereto.

CHAPTER I
PRELIMINARY

1. Short title.- This Act may be called the Central Vigilance Commission Act, 2003.

2. Definitions.- In this Act, unles the context otherwise requires,-

(a) "Central Vigilance Commissioner" means the Central Vigilance Commissioner appointed under sub-section (1) of section 4;

(b) "Commission" means the Central Vigilance Commission constituted under sub-section (1) of section 3;

(c) "Delhi Special Police Establishment" means the Delhi Special Police Establishment constituted under sub-section (1) of section 2 of the Delhi Special Police Establishment Act, 1946 (25 of 1946);

(d) "Government company" means a Government company within the meaning of the Companies Act, 1956 (1 of 1956);

(e) "prescribed" means prescribed by the rules made under this Act;

(f) "Vigilance Commissioner" means a Vigilance Commissioner appointed under sub-section (1) of section 4.

CHAPTER II
THE CENTRAL VIGILANCE COMMISSION

3. Constitution of Central Vigilance Commission.- (1) There shall be constituted a body to be known as the Central Vigilance Commission to exercise the powers conferred upon, and to perform the functions assigned to it under this Act and the Central Vigilance Commission constituted under sub-section (1) of section 3 of the Central Vigilance Commission Ordinance, 1999 (Ord. 4 of 1999) which ceased to operate, and continued under the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended vide Resolution of even number, dated the 13th August, 2002 shall be deemed to be the Commission constituted under this Act.

(2) The Commission shall consist of-

(a) a Central Vigilance Commissioner - Chairperson;

(b) not more than two Vigilance Commissioners - Members.

(3) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed from amongst persons-

(a) who have been or are in an All India Service or in any civil service of the Union or in a civil post under the Union having knowledge and experience in the matters relating to vigilance, policy making and administration including police administration; or

(b) who have held office or are holding office in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government and

persons who have expertise and experience in finance including insurance and banking, law, vigilance and investigations:

Provided that, from amongst the Central Vigilance Commissioner and the Vigilance Commissioners, not more than two persons shall belong to the category of persons referred to either in clause (a) or clause (b):

(4) The Central Government shall appoint a Secretary to the Commission on such terms and conditions as it deems fit to exercise such powers and discharge such duties as the Commission may by regulations specify in this behalf.

(5) The Central Vigilance Commissioner, the other Vigilance Commissioners and the Secretary to the Commission appointed under the Central Vigilance Commission Ordinance, 1999 (Ord. 4 of 1999) or the Resolution of the Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended vide Resolution of even number, dated the 13th August, 2002 shall be deemed to have been appointed under this Act on the same terms and conditions including the term of office subject to which they were so appointed under the said Ordinance or the Resolution, as the case may be.

Explanation.- For the purposes of this sub-section, the expression "term of office" shall be construed as the term of office with effect from the date the Central Vigilance Commissioner or any Vigilance Commissioner has entered upon his office and continued as such under this Act.

(6) The headquarters of the Commission shall be at New Delhi.

4. Appointment of Central Vigilance Commissioner and Vigilance Commissioners.- (1) The Central Vigilance Commissioner and the Vigilance Commissioners shall be appointed by the President by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of-

(a) the Prime Minister - Chairperson;

(b) the Minister of Home Affairs - Member;

(c) the Leader of the Opposition in the House of the People - Member.

Explanation.- For the purposes of this sub-section, "the Leader of the Opposition in the House of the People" shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the House of the People.

(2) No appointment of a Central Vigilance Commissioner or a Vigilance Commissioner shall be invalid merely by reason of any vacancy in the Committee.

5. Terms and other conditions of service of Central Vigilance Commissioner.- (1) Subject to the provisions of sub-sections (3) and (4), the Central Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier. The Central Vigilance Commissioner, on ceasing to hold the office, shall be ineligible for reappointment in the Commission.

(2) Subject to the provisions of Sub-sections (3) and (4), every Vigilance Commissioner shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier:

Provided that every Vigilance Commissioner, on ceasing to hold the office, shall be eligible for appointment as the Central Vigilance Commissioner in the manner specified in sub-section (1) of section 4:

Provided further that the term of the Vigilance Commissioner, if appointed as the Central Vigilance Commissioner, shall not be more than four years in aggregate as the Vigilance Commissioner and the Central Vigilance Commissioner.

(3) The Central Vigilance Commissioner or a Vigilance Commissioner shall, before he enters upon his office, make and subscribe before the President, or some other person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in Schedule to this Act.

(4) The Central Vigilance Commissioner or a Vigilance Commissioner may, by writing under his hand addressed to the President, resign his office.

(5) The Central Vigilance Commissioner or a Vigilance Commissioner may be removed from his office in the manner provided in section 6.

(6) On ceasing to hold office, the Central Vigilance Commissioner and every other Vigilance Commissioner shall be ineligible for-

(a) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the President by warrant under his hand and seal;

(b) further employment to any office of profit under the Government of India or the Government of a State.

(7) The salary and allowances payable to and the other conditions of service of-

(a) the Central Vigilance Commissioner shall be the same as those of the Chairman of the Union Public Service Commission;

(b) the Vigilance Commissioner shall be the same as those of a Member of the Union Public Service Commission:

Provided that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Central Vigilance Commissioner or any Vigilance Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Central Vigilance Commissioner or any Vigilance Commissioner is, at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a corporation established by or under any Central Act or a Government company owned or controlled by the Central Government, his salary in respect of the service as the Central Vigilance Commissioner or, as the case may be, the Vigilance Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salary, allowances and pension payable to, and the other conditions of service of, the Central Vigilance Commissioner or any Vigilance Commissioner shall not be varied to his disadvantage after his appointment.

6. Removal of Central Vigilance Commissioner and Vigilance Commissioner.- (1) Subject to the provisions of sub-section (3), the Central Vigilance Commissioner or any Vigilance Commissioner shall be removed from his office only by order of the President on the ground or proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Central Vigilance Commissioner or any Vigilance Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Central Vigilance Commissioner or any Vigilance Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Central Vigilance Commissioner or any Vigilance Commissioner if the Central Vigilance Commissioner or such Vigilance Commissioner, as the case may be,-

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) engages during his term of office in any paid employment outside the duties of his office; or

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Central Vigilance Commissioner or a Vigilance Commissioner.

(4) If the Central Vigilance Commissioner or any Vigilance Commissioner is or becomes in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

7. Power to make rules by Central Government for staff.- The Central Government may, in consultation with the Commission, make rules with respect to the number of members of the staff of the Commission and their conditions of service.

CHAPTER III

FUNCTIONS AND POWERS OF THE CENTRAL VIGILANCE COMMISSION

8. Functions and powers of Central Vigilance Commission.- (1) The functions and powers of the Commission shall be to-

(a) exercise superintendence over the functioning of the Delhi Special Police Establishment in so far as it relates to the investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) or an offence with which a public servant specified in sub-

section (2) may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial;

(b) give directions to the Delhi Special Police Establishment for the purpose of discharging the responsibility entrusted to it under sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

Provided that while exercising the powers of superintendence under clause (a) or giving directions under this clause, the Commission shall not exercise powers in such a manner so as to require the Delhi Special Police Establishment to investigate or dispose of any case in a particular manner;

(c) inquire or cause an inquiry or investigation to be made on a reference made by the Central Government wherein it is alleged that a public servant being an employee of the Central Government or a corporation established by or under any Central Act, Government company, society and any local authority owned or controlled by that Government, has committed an offence under the Prevention of Corruption Act, 1988 (49 of 1988) or an offence with which a public servant may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(d) inquire or cause an inquiry or investigation to be made into any complaint against any official belonging to such category of officials specified in sub-section (2) wherein it is alleged that he has committed an offence under the Prevention of Corruption Act, 1988 (49 of 1988) and an offence with which a public servant specified in sub-section (2) may, under the Code of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial;

(e) review the progress of investigations conducted by the Delhi Special Police Establishment into offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988) or the public servant may, under the Code of Criminal Procedure, 1973 (2 of 1974), be charged at the same trial;

(f) review the progress of applications pending with the competent authorities for sanction of prosecution under the Prevention of Corruption Act, 1988 (49 of 1988);

(g) tender advice to the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the Central Government on such matters as may be referred to it by that Government, said Government companies, societies and local authorities owned or controlled by the Central Government or otherwise;

(h) exercise superintendence over the vigilance administration of the various Ministries of the Central Government or corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government;

Provided that nothing contained in this clause shall be deemed to authorise the Commission to exercise superintendence over the Vigilance administration in a manner not consistent with the directions relating to vigilance matters issued by the Government and to confer power upon the Commission to issue directions relating to any policy matters;

(2) The persons referred to in clause (d) of sub-section (1) are as follows:-

(a) members of All-India Services serving in connection with the affairs of the Union and Group 'A' officers of the Central Government;

(b) such level of officers of the corporations established by or under any Central Act, Government companies, societies and other local authorities, owned or controlled by the Central Government, as that Government may, by notification in the Official Gazette, specify in this behalf:

Provided that till such time a notification is issued under this clause, all officers of the said corporations, companies, societies and local authorities shall be deemed to be the persons referred to in clause (d) of sub-section (1).

9. Proceedings of Commission.- (1) The proceedings of the Commission shall be conducted at its headquarters.

(2) The Commission may, by unanimous decision, regulate the procedure for transaction of its business as also allocation of its business amongst the Central Vigilance Commissioner and other Vigilance Commissioners.

(3) Save as provided in sub-section (2), all business of the Commission shall, as far as possible, be transacted unanimously.

(4) Subject to the provisions of sub-section (3), if the Central Vigilance Commissioner and other Vigilance Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority.

(5) The Central Vigilance Commissioner, or, if for any reason he is unable to attend any meeting of the Commission, the senior-most Vigilance Commissioner present at the meeting, shall preside at the meeting.

(6) No act or proceeding of the Commission shall be invalid merely by reason of-

(a) any vacancy in, or any defect in the constitution of, the Commission; or

(b) any defect in the appointment of a person acting as the Central Vigilance Commissioner or as a Vigilance Commissioner; or

(c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10. Vigilance Commissioner to act as Central Vigilance Commissioner in certain circumstances.- (1) In the event of the occurrence of any vacancy in the office of the Central Vigilance Commissioner by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Vigilance Commissioners to act as the Central Vigilance Commissioner until the appointment of a new Central Vigilance Commissioner to fill such vacancy.

(2) When the Central Vigilance Commissioner is unable to discharge his functions owing to absence on leave or otherwise, such one of the Vigilance Commissioners as the President may, by notification, authorise in this behalf, shall discharge the functions of the Central Vigilance Commissioner until the date on which the Central Vigilance Commissioner resumes his duties.

11. Power relating to inquiries.- The Commission shall, while conducting any inquiry referred to in clauses (b) and (c) of sub-section (1) of section 8, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) and in particular, in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or other documents; and

(f) any other matter which may be prescribed.

12. Proceedings before Commission to be judicial proceedings.- The Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974) and every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (45 of 1860).

CHAPTER IV
EXPENSES AND ANNUAL REPORT

13. Expenses of Commission to be charged on the Consolidated Fund of India.- The expenses of the Commission, including any salaries, allowances and pensions payable to or in respect of the Central Vigilance Commissioner, the Vigilance Commissioners, Secretary and the staff of the Commission, shall be charged on the Consolidated Fund of India.

14. Annual Report.- (1) It shall be the duty of the Commission to present annually to the President a report as to the work done by the Commission within six months of the close of the year under report.

(2) The report referred to in sub-section (1) shall contain a separate part on the functioning of the Delhi Special Police Establishment in so far as it relates to sub-section (1) of section 4 of the Delhi Special Police Establishment Act, 1946 (25 of 1946).

(3) On receipt of such report, the President shall cause the same to be laid before each House of Parliament.

CHAPTER V
MISCELLANEOUS

15. Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against the Commission, the Central Vigilance Commissioner, any Vigilance Commissioner, the Secretary or against any staff of the Commission in respect of anything which is in good faith done or intended to be done under this Act.

16. Central Vigilance Commissioner, Vigilance Commissioner and staff to be public servants.- The Central Vigilance Commissioner, every Vigilance Commissioner, the Secretary and every staff of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

17. Report of any inquiry made on reference by Commission to be forwarded to that Commission.- (1) The report of the inquiry undertaken by any agency on a reference made by the Commission shall be forwarded to the Commission.

(2) The Commission shall, on receipt of such report and after taking into consideration any other factors relevant thereto, advise the Central Government and corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government, as the case may be, as to the further course of action.

(3) The Central Government and the corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government, as the case may be, shall consider the advice of the Commission and take appropriate action:

Provided that where the Central Government, any corporation established by or under any Central Act, Government company, society or local authority owned or controlled by the Central Government, as the case may be, does not agree with the advice of the Commission, it shall, for reasons to be recorded in writing, communicate the same to the Commission.

18. Power to call for information.- The Commission may call for reports, returns and statements from the Central Government or corporations established by or under any Central Act, Government companies, societies and other local authorities owned or controlled by that Government so as to enable it to exercise general supervision over the vigilance and anti-corruption work in that Government and in the said corporations, Government companies, societies and local authorities.

19. Consultation with Commission in certain matters.- The Central Government shall, in making any rules or regulations governing the vigilance or disciplinary matters relating to persons appointed to public services and posts in connection with the affairs of the Union or to members of the All-India Services, consult the Commission.

20. Power to make rules.- (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the number of members of the staff and their conditions of service under section 7;

(b) any other power of the civil court to be prescribed under clause (f) of section 11; and

(c) any other matter which is required to be, or may be, prescribed.

21. Power to make regulations.- (1) The Commission may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with this Act and the rules made thereunder to provide for all matters for which provision is expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a) the duties and the powers of the Secretary under sub-section (4) of section 3; and

(b) the procedure to be followed by the Commission under sub-section (2) of section 9.

22. Notification rule, etc., to be laid before Parliament.- Every notification issued under clause (b) of sub-section (2) of section 8 and every rule made by the Central Government and every regulation made by the Commission under this Act shall be laid, as soon as may be after it is issued or made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or the rule or the regulation, or both Houses agree that the notification or the rule or the regulation should not be made, the notification or the rule or the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or rule or regulation.

23. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

24. Provisions relating to existing Vigilance Commission.- With effect from the constitution of the Commission under sub-section (1) of section 3, the Central Vigilance Commission set up by the Resolution of the Government of India in the Ministry of Home Affairs No. 24/7/64-AVD, dated the 11th February, 1964 (hereafter referred to in this section as the existing Vigilance Commission) shall, in so far

as its functions are not inconsistent with the provisions of this Act, continue to discharge the said functions and-

(a) all actions and decisions taken by the Vigilance Commission insofar as such actions and decisions are relatable to the functions of the Commission constituted under this Act shall be deemed to have been taken by the Commission;

(b) all proceedings pending before the Vigilance Commission, insofar as such proceedings relate to the functions of the Commission, shall be deemed to be transferred to the Commission and shall be dealt with in accordance with the provisions of this Act;

(c) the employees of the Vigilance Commission shall be deemed to have become the employees of the Commission on the same terms and conditions;

(d) all the assets and liabilities of the Vigilance Commission shall be transferred to the Commission.

25. Appointments, etc., of officers of Directorate of Enforcement.- Notwithstanding anything contained in the Foreign Exchange Management Act, 1999 (42 of 1999) or any other law for the time being in force,-

(a) the Central Government shall appoint a Director of Enforcement in the Directorate of Enforcement in the Ministry of Finance on the recommendation of the Committee consisting of-

(i)	the Central Vigilance Commission	Chairperson;
(ii)	Vigilance Commissioners	Members;
(iii)	Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government	Member;
(iv)	Secretary to the Government of India in-charge of the Ministry of Personnel in the Central Government	Member;
(v)	Secretary to the Government of India in-charge of the Department of Revenue, Ministry of Finance in the Central Government	Member

(b) while making a recommendation, the Committee shall take into consideration the integrity and experience of the officers eligible for appointment;

(c) no person below the rank of Additional Secretary to the Government of India shall be eligible for appointment as a Director of Enforcement;

(d) a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office;

(e) a Director of Enforcement shall not be transferred except with the previous consent of the Committee referred to in clause (a);

(f) the committee referred to in clause (a) shall, in consultation, with the Director of Enforcement, recommend officers for appointment to the posts above the level of the Deputy Director of Enforcement and also recommend the extension or curtailment of the tenure of such officers in the Directorate of Enforcement;

(g) on receipt of the recommendation under clause (f), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.

26. Amendment of Act 25 of 1946.- In the Delhi Special Police Establishment Act, 1946,-

(a) after section 1, the following section shall be inserted, namely:-

"1A. Interpretation section.- Words and expressions used herein and not defined but defined in the Central Vigilance Commission Act, 2003, shall have the meanings, respectively, assigned to them in that Act.";

(b) for section 4, the following sections shall be substituted, namely:-

"4. Superintendence and administration of Special Police Establishment.- (1) The superintendence of the Delhi Special Police Establishment in so far as it relates to investigation of offences alleged to have been committed under the Prevention of Corruption Act, 1988 (49 of 1988), shall vest in the Commission.

(2) Save as otherwise provided in sub-section (1), the superintendence of the said police establishment in all other matters shall vest in the Central Government.

(3) The administration of the said police establishment shall vest in an officer appointed in this behalf by the Central Government (hereinafter referred to as the Director) who shall exercise in respect of that police establishment such of the powers exercisable by an Inspector-General of Police in respect of the police force in a State as the Central Government may specify in this behalf.

4A. Committee for appointment of Director.- (1) the Central Government shall appoint the Director on the recommendation of the Committee consisting of-

a	the Central Vigilance Commissioner	Chairperson;
b	Vigilance Commissioners	Members;
c	Secretary to the Government of India in-charge of the Ministry of Home Affairs in the Central Government	Member;
d	Secretary (Coordination and Public Grievances) in the Cabinet Secretariat	Member;

(2) While making any recommendation under sub-section (1), the Committee shall take into consideration the views of the outgoing Director.

(3) The Committee shall recommend a panel of officers-

(a) on the basis of seniority, integrity and experience in the investigation of anti-corruption cases; and

(b) chosen from amongst officers belonging to the Indian Police Service constituted under the All-India Services Act, 1951 (61 of 1951).

for being considered for appointment as the Director.

4B. Terms and conditions of service of Director.- (1) The Director shall, notwithstanding anything to the contrary contained in the rules relating to his conditions of service, continue to hold office for a period of not less than two years from the date on which he assumes office.

(2) The Director shall not be transferred except with the previous consent of the Committee referred to in sub-section (1) of section 4A.

4C. Appointment for posts of Superintendent of Police and above, extension and curtailment of their tenure, etc.- The Committee referred to in section 4A shall, after consulting the Director, recommend officers for appointment to the posts of the level of Superintendent of Police and above and also recommend the extension or curtailment of the tenure of such officers in the Delhi Special Police Establishment.

(2) On receipt of the recommendation under sub-section (1), the Central Government shall pass such orders as it thinks fit to give effect to the said recommendation.";

(c) after section 6, the following section shall be inserted, namely:-

"6A. Approval of Central Government to conduct to conduct inquiry or investigation.- (1) The Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to-

(a) the employees of the Central Government of the level of Joint Secretary and above; and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

(2) Notwithstanding anything contained in sub-section (1), no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any gratification other than legal remuneration referred to in clause (c) of the Explanation to section 7 of the Prevention of Corruption Act, 1988 (49 of 1988)."

27. Repeal and saving.- (1) The Government of India in the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Resolution No. 371/20/99-AVD. III, dated the 4th April, 1999 as amended vide Resolution of even number, dated the 13th August, 2002 is hereby repealed.

(2) Notwithstanding such repeal and the cesser of operation of the Central Vigilance Commission Ordinance, 1999 (Ord. 4 of 1999), anything done or any action taken under the said Resolution and the said Ordinance including the appointments made and other actions taken or anything done or any action taken or any appointment made under the Delhi Special Police Establishment Act, 1946 (25 of 1946) and the Foreign Exchange Regulation Act, 1973 (46 of 1973) as amended by the said Ordinance shall be deemed to have been made or done or taken under this Act or the Delhi Special Police Establishment Act, 1946 and the Foreign Exchange Regulation Act, 1973 as if the amendments made in those Acts by this Act were in force at all material times.

THE SCHEDULE

[See section 5(3)]

Form of oath or affirmation to be made by the Central Vigilance Commissioner or Vigilance Commissioner:-

"I, A.B., having been appointed Central Vigilance Commissioner (or Vigilance Commissioner) of the Central Vigilance Commission do swear in the name of god / solemnly affirm that I will bear true faith and allegiance to

the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the constitution and the laws."

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಕೆ. ನೀಲಕಂಠಚಾರ್

PR-64

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ)

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 17 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 19ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 12.09.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Election and other Related Laws (Amendment) Act, 2003 (Act No. 46 of 2003) ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE ELECTION AND OTHER RELATED LAWS (AMENDMENT) ACT, 2003

An Act further to amend the Representation of the People Act, 1951, the Companies Act, 1956 and the Income-tax Act, 1961

Be it enacted by Parliament in the Fifty-fourth year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title.- This Act may be called the Election and other Related Laws (Amendment) Act, 2003.

CHAPTER II

AMENDMENTS OF THE REPRESENTATION OF THE PEOPLE ACT, 1951

2. Insertion of new sections 29B and 29C.- After section 29A of the Representation of the People Act, 1951 (43 of 1951) (hereafter in this Chapter referred to as the principal Act), the following sections shall be inserted, namely:-

'29B. Political parties entitled to accept contribution.- Subject to the provisions of the Companies Act, 1956 (1 of 1956) every political party may accept any amount of contribution voluntarily offered to it by any person or company other than a Government company:

Provided that no political party shall be eligible to accept any contribution from any foreign source defined under clause (e) of section 2 of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976).

Explanation.- For the purposes of this section and section 29C,-

(a) "company" means a company as defined in section 3;

(b) "Government company" means a company within the meaning of section 617; and

(c) "contribution" has the meaning assigned to it under section 293A, of the Companies Act, 1956 (1 of 1956) and includes any donation or subscription offered by any person to a political party; and

(d) "person" has the meaning assigned to it under clause (31) of section 2 of the Income-tax Act, 1961 (43 of 1961), but does not include Government company, local authority and every artificial juridical person wholly or partially funded by the Government.

29C. Declaration of donation received by the political parties.- (1) The treasurer of a political party or any other person authorised by the political party in this behalf shall, in each financial year, prepare a report in respect of the following, namely:-

(a) the contribution in excess of twenty thousand rupees received by such political party from any person in that financial year;

(b) the contribution in excess of twenty thousand rupees received by such political party from companies other than Government companies in that financial year.

(2) The report under sub-section (1) shall be in such form as may be prescribed.

(3) The report for a financial year under sub-section (1) shall be submitted by the treasurer of a political party or any other person authorised by the political party in this behalf before the due date for furnishing a return of its income of that financial year under section 139 of the Income-tax Act, 1961 (43 of 1961) to the Election Commission.

(4) Where the treasurer of any political party or any other person authorised by the political party in this behalf fails to submit a report under sub-section (3), then, notwithstanding anything contained in the Income-tax Act, 1961 (43 of 1961), such political party shall not be entitled to any tax relief under that Act.'

3. Insertion of new section 39A.- After section 39 of the principal Act, the following section shall be inserted, namely:-

'39A. Allocation of equitable sharing of time.- (1) Notwithstanding anything contained in any other law for the time being in force, the Election Commission shall, on the basis of the past performance of a recognised political party, during elections, allocate equitable sharing of time on the cable television network and other electronic media in such manner as may be prescribed to display or propagate any election matter or to address public in connection with an election.

(2) The allocation of equitable sharing of time under sub-section (1), in respect of an election, shall be made after the publication of list of contesting candidates under section 38 for the election and shall be valid till forty-eight hours before the hour fixed for poll for such election.

(3) The allocation of equitable sharing of time under sub-section (1) shall be binding on all political parties concerned.

(4) The Election Commission may, for the purposes of this section, make code of conduct for cable operators and electronic media and the cable operators and every person managing or responsible for the management of the electronic media shall abide by such code of conduct.

Explanation.- For the purposes of this section,-

(a) "electronic media" includes radio and any other broadcasting media notified by the Central Government in the Official Gazette;

(b) "cable television network" and "cable operator" have the meanings respectively assigned to them under the Cable Television Networks (Regulation) Act, 1995 (7 of 1995).'

4. Amendment of section 77.- In section 77 of the principal Act, in sub-section (1), for Explanations 1 and 3, the following Explanations shall be substituted, namely:-

'Explanation 1.- For the removal of doubts, it is hereby declared that-

(a) the expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorised by a candidate of that political party or his election agent for the purposes of this sub-section;

(b) any expenditure incurred in respect of any arrangements made, facilities provided or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorised by a candidate or by his election agent for the purposes of this sub-section.

Explanation 2.- For the purposes of clause (a) of Explanation 1, the expression "leaders of a political party", in respect of any election, means,-

(i) where such political party is a recognised political party, such persons not exceeding forty in number, and

(ii) where such political party is other than a recognised political party, such persons not exceeding twenty in number,

whose names have been communicated to the Election Commission and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State, as the case may be, under this Act:

Provided that a political party may, in the case where any of the persons referred to in clause (i) or, as the case may be, in clause (ii) dies or ceases to be a member of such political party, by further communication to the Election Commission and the Chief Elctoral Officers of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.'

5. Insertion of new part VA.- After Part V of the principal Act, the following Part shall be inserted namely:-

'PART VA

FREE SUPPLY OF CERTAIN MATERIAL TO CANDIDATES OF RECOGNISED POLITICAL PARTIES

78A. Free supply of copies of electoral rolls.- (1) The Government shall, at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State, supply, free of cost, to the candidates of recognised political parties such number of copies of the electoral roll, as finally published under the Representation of the People Act, 1950 (43 of 1950) and such other material as may be prescribed.

(2) The material referred to in sub-section (1) shall be supplied,-

(i) subject to such conditions as may be imposed by the Central Government in consultation with the Election Commission with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77; and

(ii) through such officers as may be specified by the Election Commission who shall act in accordance with such general or special directions as may be given by the Election Commission.

78B. Supply of certain items to candidates, etc.- (1) The Election Commission shall, at any time between the date of publication of the notification calling the election for the purposes of constituting the House of the People or the Legislative Assembly of a State and the date on which the poll is to be taken, supply or cause to be supplied, such items as the Central Government may, by order, determine in consultation with the Election Commission, to the electors in the constituencies concerned or to the candidates set up by the recognised political parties.

(2) Where the Election Commission supplies the items to the candidates under sub-section (1), the Central Government may, in consultation with the Election Commission, impose conditions with respect to the reduction of the maximum expenditure which may be incurred by the candidate under section 77.

Explanation.- For the purposes of section 39A, this Chapter and clause (hh) of sub-section (2) of section 169, the expression "recognised political party", has the meaning assigned to it in the Election Symbols (Reservation and Allotment) Order, 1968.'

6. Amendment of section 169.- In section 169 of the principal Act, in sub-section (2),-

(i) After clause (aa), the following clause shall be inserted, namely:-
"(aaa) the form of contribution report;"

(ii) after clause (b), the following clause shall be inserted, namely:-
"(bb) the manner of allocation of equitable sharing of time on the cable television network and other electronic media;"

(iii) after clause (h), the following clause shall be inserted, namely:-
"(hh) the material to be supplied by the Government to the candidates of recognised political parties at any election to be held for the purposes of constituting the House of the People or the Legislative Assembly of a State;"

CHAPTER III

AMENDMENT OF THE COMPANIES ACT, 1956

7. Amendment of section 293A of Act 1 of 1956.- In section 293A of the Companies Act, 1956, after sub-section (5), the following Explanation shall be inserted, namely:-

"Explanation.- For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951)."

CHAPTER IV

AMENDMENT OF THE INCOME-TAX ACT, 1961

8. Amendment of section 13A.- In section 13A of the Income-tax Act, 1961 (43 of 1961) (hereafter in this Chapter referred to as the Income-tax Act),-

(i) in the proviso, in clause (b), the words "ten thousand rupees", the words "twenty thousand rupees" shall be substituted;

(ii) after the proviso and before the Explanation, the following proviso shall be inserted, namely:-
"Provided further that if the treasurer of such political party or any other person authorised by that political party in this behalf fails to submit a report under sub-section (3) of section 29C of the Representation of the People Act, 1951 (43 of 1951) for a financial year, no exemption under this section shall be available for the political party for such financial year."

(iii) for the Explanation, the following Explanation shall be substituted, namely:-
'Explanation.- For the purposes of this section, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).'

9. Amendment of section 80A.- In section 80A of the Income-tax Act, in sub-section (3), for the word, figures and letters "section 80GGA", the words, figures and letters "section 80GGA or section 80GGC" shall be substituted.

10. Insertion of new sections 80GGB and 80GGC.- After section 80GGA of the Income-tax Act, the following sections shall be inserted, namely:-

'80GGB. Deduction in respect of contributions given by companies to political parties.- In computing the total income of an assessee, being an Indian company, there shall be deducted any sum contributed by it, in the previous year to any political party.

Explanation.- For the removal of doubts, it is hereby declared that for the purposes of this section, the word "contribute", with its grammatical variation, has the meaning assigned to it under section 293A of the Companies Act, 1956 (1 of 1956).

80GGC. Deduction in respect of contributions given by any person to political parties.- In computing the total income of an assessee, being any person, except local authority and every artificial juridical person wholly or partly funded by the Government, there shall be deducted any amount of contribution made by him, in the previous year, to a political party.

Explanation.- For the purposes of sections 80GGB and 80GGC, "political party" means a political party registered under section 29A of the Representation of the People Act, 1951 (43 of 1951).'

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಕೆ. ನೀಲಕಂಠಚಾರ್
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ)
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 15 ಕೇಶಾಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 25ನೇ ಮಾರ್ಚ್ 2004

2003ನೇ ಸಾಲಿನ ಸೆಪ್ಟೆಂಬರ್ 19ನೇ ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ, ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 1ರಲ್ಲಿ ಪ್ರಕಟವಾದ The Constitution (Scheduled Tribes) Order (Amendment) Act, 2003 (Central Act, No. 47 of 2003) ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2003

An Act further to amend the Constitution (Scheduled Tribes) Order, 1950 to modify the list of Scheduled Tribes in the State of Assam

Be it enacted by Parliament in the Fifty-fourth year of the Republic of India as follows:-

1. Short title.- This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2003.

2. Amendment of the Constitution (Scheduled Tribes) Order, 1950.- In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in **Part II**.- Assam,-

(i) 'for the sub-part heading "I, in the autonomous districts" the following shall be substituted namely:-

"I. In the autonomous districts of Karbi Anglong and North Cachar Hills";

(ii) for the sub-part heading "II. In the State of Assam excluding the autonomous districts", the following shall be substituted, namely:-

"II. In the State of Assam including the Bodoland Territorial Areas District and excluding the autonomous districts of Karbi Anglong and North Cachar Hills."

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಕೆ. ನೀಲಕಂಠಚಾರ್
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ)
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

PR-66

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 74 ಕೇನಿಪ್ರ 2004, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 29ನೇ ಮಾರ್ಚ್ 2004

ದಿನಾಂಕ: 28.12.2003ರ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(ii) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O.2-[Notification No. 228/112/2003-DSPE dated 9.12.2003] ನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

New Delhi, the 19th December, 2003

S.O. 2.- In exercise of the powers conferred by Sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Karnataka, vide Notification No. HD 243 PCR 203 dated 14.11.2003, hereby extends the powers and jurisdiction of the members of the Delhi Sepcial Police Establishment to the whole of the State of Karnataka for investigation of offences against Shri K. Nageshwara Rao, Assistant Garrison Engineer, MES, Ulsoor, Bangalore and other public servants or persons under Section 7 and Section 13(2) read with 13(1) (d) of Prevention of Corruption Act, 1988 (Act No. 49 of 1988) and attempts, abetments and conspiracy in relation to or in connection with one or more of the offence mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

No. 228/112/2003-DSPE]
Subha Thakur, Under Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಕೆ. ನೀಲಕಂಠಚಾರ್
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ (ಪ್ರಭಾರ)
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

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ELECTION COMMISSION OF INDIA
Nirvachan Sadan, Ashoka Road, New Delhi.
NOTIFICATION No. 82/CS-KT/2/02/2003, dated: 22nd March 2004 Chaitra 2, 1926 (Saka)

In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the order of the High Court of Karnataka at Bangalore dated: 20th November, 2003 in Election Petition No.2 of 2002 file by Smt. D.K. Tharadevi Siddhartha calling in question the election of Dr. Vijay Mallya as a Member of the Council of States from the State of Karnataka.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
Dated this the 20th day of November, 2003
Before
THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR
Election Petition 2/2002

Between:
Smt D.K. Tharadevi Siddhartha W/o Siddhartha Reddy
R/a "Krishna Ashraya" Mudigere, Chikmagalur-577 132 Petitioner
(By Sri G.S. Visveshwara for Sri Arvind Kumar, Adv.)
And

1. Dr. Vijaya Mallya S/o late Vittal Mallya
   R/a # 3, Vittal Mallya Road, Bangalore.
2. Sri Janardhana Poojary S/o Jarappa Poojary
   R/a Channamma Kutira, B.C. Road, Bantwal Taluk, D.K. District.
3. Smt Prema Cariappa W/o I.M. Cariappa
   R/a # 33/4, Thyagaraj Layout, Maruthi Sevanagar, Bangalore-33.
4. Sri M.V. Rajashekaran S/o Veerashetty
   R/a # 20/1, Kanakapura, Basavanagudi, Bangalore-4. Respondents

(By Sri Udaya Holla for Sri S.R. Shivaprakash Adv. For 1; R2-4 are placed exparte)

This Election Petition is filed under Section 81 of the Representation of People Act, 1951 praying to declare that the election of R1 as contained in annexure J declaring the 1st respondent as duly elected to the Council of States as void under Sec. 100(1)(a) and Sec.100(1)(d)(i) of Representation of People Act, 1951, etc.

This Election Petition having been reserved and coming on for Pronouncement of Orders this day, the Court made the following:

ORDER

The Election Petitioner has filed this petition under Sec.83 of the Representation of people Act, 1951 to declare the election of the 1st respondent to the Council of States as void and for a further declaration that the petitioner should be declared as the elected candidate in place of the 1st respondent.

The Election Commission of India by a notification dated: 7.3.2002, notified the number of seats to be filled up to the Rajya Sabha from the Council of States including from the State of Karnataka. As per the calendar of events published, the last date for filing nomination papers was 14.3.2003, the scrutiny of the nomination papers was to be held on 15.3.2002, the last date for withdrawal of nomination was 18.3.2002 and the date of the elections was on 27.3.2002. The election petitioner herein and the 1st respondent filed their nominations to be elected as Rajya Sabha members from the State of Karnataka. When the nomination papers were taken up for scrutiny of 15.3.2002, the election petitioner filed her objections against the acceptance of the nomination of the 1st respondent on the ground that the 1st respondent is not an ordinary resident of Shanthinagar Constituency and his name was wrongly registered in the electoral list. The Returning Officer after holding an enquiry overruled the objections and in the elections that was held, the 1st respondent was declared elected by a declaration dated: 27.3.2002 having secured 46 votes as against the petitioner who had secured 34 votes. This declaration of results is questioned by the election petitioner by filing the petition on 27.5.2002.

According to the election petitioner, the 1st respondent was not an 'ordinary resident' of Shanthinagar Constituency being a 'non-resident Indian' and having business interest abroad. That he had declared as residing at Dubai in his income tax returns and he has also been held as a non-resident Indian by the Directorate of Enforcement. He only visited Bangalore temporarily without an intention to 'ordinarily reside' here and he got his name registered in the electoral roll only for the purpose of contesting the Rajya Sabha elections. The entering of his name in the electoral roll was by a false declaration made before the Electoral Registration Officer and registering his name is an illegal act.

The Returning Officer accepted the nomination of the 1st respondent improperly.

That being a non-resident Indian and having his business interests abroad, he owes allegiance and adherence to foreign State and therefore disqualified under Art.102 of the Constitution.

Upon notice of this election petition, 1st respondent has entered appearance and has filed his written statement, while respondents 2, 3 and 4 have not contested the petition.

Respondent 1 has stated in his written statement that:

i) The election petition is liable to be dismissed as being presented beyond the period of 45 days as per Sec.81 of the Representation of the People Act, 1951 (hereinafter referred to as the RP Act, 1951 for brevity). According to him, the declaration of election results was on 27.3.2002 and the election petition was presented on 27.5.2002 which was beyond 45 days.

ii) That the election petition does not disclose the cause of action within the meaning of Sec.100 of the RP Act, 1951.

iii) That the grounds stated in Art.102(10)(d) or (e) are not attracted to the facts of the case.

iv) That petitioner cannot question the inclusion of the name of 1st respondent in the electoral list, by means of this election petition.

v) That the election petition is not verified as required under Order 6 Rule 15 of Code of Civil Procedure and the copies supplied to the respondent is not attested as true copies.

The 1st respondent has denied the allegation that he is not an 'ordinary resident'. According to him, the very address in the case title furnished by the election petitioner indicates that he is residing at No.3, Vittal Malya Road, Bangalore which proves that he is an ordinary resident of Bangalore. By merely declaring as a 'non-resident Indian' under the provisions of the Foreign Exchange Management Act, 1999 and Foreign Exchange Regulation Act and Income Tax Act and having business interests abroad will not make such a person as not an ordinary resident.

He further states that, he has been residing in Bangalore at No.3, V.M.Road for well over 30 years in fact, the road (Dr. Vittal Mallya Road) is named after his late father Dr. Vittal Mallya; that, the 1st respondent is a citizen of India by birth and he is holding an Indian passport where his address is shown as Vittal Mallya Road, Bangalore; that he has set up a hospital in the name of his grandfather at Mallya Road and he is the Chairman of UB World Group of Companies which has its HQ at Bangalore; besides he has been the nominee appointed and on behalf of the Government of Karnataka to the Managing Committee of the Bangalore Turf Club from 1995 to 1998 and from 1999 till date; that on 4.2.2002, the Government of India has addressed a letter to this respondent at his Vittal Mallya Road for being considered for appointment as a part time non-official Director on the Board of Air India Ltd; that his name was registered in the electoral roll in the year 1999 and on that basis he had also contested the elections to the Council of States from Karnataka in 2000.

On the allegation that the respondent owes allegiance or adherence to foreign State, it is denied that he owes any such allegiance or adherence to any foreign State. He has therefore, sought for dismissal of the election petition.

The parties have also filed draft issues.

On the basis of the pleadings, the following issues are framed:

1. Whether the petitioner proves that the first respondent was not qualified to contest the election to the Council of States from Karnataka held on 27.3.2002?
2. Whether the petitioner further proves that the registration of the first respondent as a voter in Shanthinagar Assembly Constituency, Bangalore is illegal? If so, he was not entitled to contest for the election to the Council of States held on 27.3.2002?
3. Whether the petitioner further proves that the first respondent is not an ordinarily resident of Shanthinagar, Bangalore as contemplated under the Representation of People Act?
4. Whether the petitioner proves that there was any improper acceptance of nominations for the election to Council of States from Karnataka held on 27.3.2002?
5. Whether the petitioner proves that the first respondent owes allegiance or adherence to a foreign State within the meaning of Art.102 of the Constitution of India and therefore, he is disqualified for being chosen as a Member of Parliament?
6. Whether the election of the first respondent to the Council of States from Karnataka held on 27.3.2002 is void under Sec.100(1)(a) and Sec.100(1)(d)(I) of the Representation of People Act, 1951?
7. Whether the Election Petition is liable to be dismissed as it is not verified in the manner laid down under the Code of Civil Procedure, 1908?
8. Whether the Election Petition is liable to be dismissed on the ground that the petitioner has not served a true copy of the Election Petition as required under Sec.81 of the RP Act, 1951?
9. Whether the petitioner has not deposited the cost as required under Sec.117 of the RP Act?
10. Whether the petition is liable to be dismissed on the ground of limitation?
11. Whether the Election Petition is liable to be dismissed for non-compliance of the provisions of Secs.117,81 and 86 of the Representation of People Act?
12. To what relief the petitioner is entitled.

In support of the issues, the parties have led evidence. The election petitioner examined herself as PW1 and summonned the Addl. Commissioner of Income Tax, Calcutta-Mr. Rajib Kumar De and the Revenue Officer L Srinivasaiah and examined them as PW 2 and 3. Petitioner apart from adducing oral evidence, has also produced and got marked the following documents viz., Copy of calendar of events, declaration of results and the objections filed to the acceptance of nomination before the Returning Officer as Ex.P1 to P7; the letter addressed to the Electoral Registration Officer which is dated: 17.3.2002 as

Ex.P8, the letter dated: 17.3.2002 addressed to the Chief Election Commissioner as Ex.P9; the files containing the income Tax Returns of the 1st respondent as Ex.P11-17 and; the affidavits as Ex.P18-19; the objections filed by Sri Purushotham and Sri R. Prabhakar as Ex.P20 and P 21 and; the entire file relating to the objections for application of Dr. Vijay Mallya as Ex.P22.

The 1st respondent did not chose to examine either himself or any witnesses in support of his defense. But, however the following documents got marked through the petitioner during her cross examination.

1. Ex.R1 - Order of the Electoral Registration Officer
2. Ex.R2 - Passport
3. Ex.R3 - Notification dated: 25.9.2002
4. Ex.R4 - Copy of election petition
5. Ex.R5 - Certificate of security deposit
6. Ex.R6 - Notification for summer vacation of High Court.

The evidence of the petitioner and her witnesses will be referred to at the appropriate place while discussing Issues.

In order to answer the Issues, the relevant provision of Representation of Peoples Act, 1951 regarding the presentation of an election petition and the grounds available for challenging the election is referred to herein. An aggrieved person can challenge the elections of a returned candidate by presenting an election petition under Sec.81 on the grounds stated in Sec.100(1) and Sec.101. Relevant clauses of Section 81 is extracted herein omitting what is unnecessary.

Sec.81: Presentation of petitions:

1. An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of Sec.100 and Sec.101 to the High court by any candidate at such election or any elector within forty five days from, but not earlier than, the date of election of the returned candidate or if there are more than one returned candidate at the election and dates of their election are different, the later of those two dates.
   Explanation: In this sub-section, 'elector' means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.
2. Omitted.
3. Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

The grounds on which the elections can be challenged are stated under Sec.100 and 101. The only ground on which the election petitioner has challenged the election of 1st respondent is under Sec.100(a) and 100(d)(iv) which will be referred to while discussing the relevant issues.

Findings on Issues:

Issue Nos:2,3 and 4 all relate to the question of correctness and legality of registering the 1st respondent as a voter in Shanthinagar assembly constituency of Bangalore on the ground that he is not an 'ordinary resident'. Hence, they are all taken together.

It is now well settled position of law that the inclusion or exclusion of the name of a person as a voter in the electoral list cannot be a ground of challenge in an election petition. The said issues are answered holding that the consideration of the said issues are beyond the purview of an election petition. Two decisions of this Court is referred to herein in support of the above proposition. They are:

This Court in Sree Kannan Vs Returning Officer-ILR 1998 KAR 1081 relying on the following Supreme Court decisions in Vaidyanatha Vs Seetharam - AIR 1970 SC 314; Wupasana Rao Vs Odio - AIR 1971 SC 2123 and Narendra Vs Manikya Rao - 1977 SC 217, has held that "Any dispute relating to inclusion of the name of a person in a electoral roll would not be a subject matter of election petition."

Similarly, in Robert J Vs Ram Jethmalani-ILR 1990 KAR 1907, it has been held that the inclusion of the name of a person in the electoral roll cannot be a ground to challenge an election in an election petition under Sec.81 of the RP Act, 1951; hence, the issues are answered against the petitioner.

Issue Nos. 1,5 & 6:

These three issues are taken up together for convenience. These issues arise on the contention of the petitioner that the election of the 1st respondent has to be declared as void on the ground mentioned in Sec.100 (1) (a) and 100 (d) (iv) of the Representation of Peoples Act, 1951 and Art.102 of the Constitution.

Sec.100(1) of the Representation of Peoples Act, 1951 reads as under:

Sec.100(1): subject to the provisions of Sub-sec.(2), if the High Court is of the opinion

(a) that on the date of his election, returned candidate was not qualified or was disqualified to be chosen to fill the seat under the Constitution or this Act or the Government of Union Territories Act 1963 (20 of 1963)
(b) xxxx
(c) xxxx
(d) xxxx

The High Court shall declare the election of the returned candidate to be void.

Relevant clause of Art.102 of the Constitution reads as under:
102: Disqualifications for membership:

1. A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament-
   a. xxxx
   b. xxxx
   c. xxxx
   d. If he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under an acknowledgement of allegiance or adherence to a foreign State;
   e. If he is so disqualified by o under any law made by parliament.

Elaborate argument was addressed by petitioner's learned counsel Sri G.S. Visveshwara on this point viz., that having regard to language of Sec.100(1)(a) of Representation of Peoples Act 1951 read with Art.102(d) of the Constitution of India, 1st respondent must be held to owe 'allegiance' or 'adherence' to a foreign State as admittedly, he is a 'non-resident Indian'. In support of his arguments, counsel referred to the income tax returns filed before the Income Tax authority by 1st respondent wherein he has voluntarily declared himself as a 'non-resident Indian' which according to the counsel necessarily means he must be having business interests in foreign countries and consequently, owes allegiance or adherence to the said countries. The evidence of the petitioner who has been examined as PW 1 on these two issues is "Dr Mallya being an NRI has allegiance, adherence to a foreign State and as such is disqualified for the membership of Council of the State. Dr. Mallya's permanent residence is at UAE, Dubai. He does not permanently reside at Bangalore. He has his business in UAE, USA, UK and South Africa. He is an income tax assessee at Calcutta. Dr. Vijay Mallya is following the rules of foreign State. He is also paying taxes in foreign states. He has also mentioned in the income tax returns filed by him that he is a non-resident Indian." In cross-examination she has admitted what she means by 'allegiance' In the following terms: "It is true that when a person owes allegiance to a State, he becomes the citizen of that State. "But, she also admits that "It is true that Vijay Mallya has floated large number of Indian companies and also is the Chairman and Director of some such companies." On the requirement of a person taking oath when he becomes a Member of Parliament, it is stated by her as: ":it is true that when a person is elected as a MP, he has to take the oath of allegiance in Form 3 before he is admitted into the Parliament. It is true that Vijay Mallya is admitted to the Parliament as its Member. Regarding her source of Information to say that Vijay Mallya is a non-resident Indian she admits it is based on the information furnished by her party members and on the basis of the record. She admits that she is not personally aware of Vijay Mallya or his affairs.

The income tax returns filed by the 1st respondent before the Income Tax Department at Calcutta for the accounting year 1995-96 to 2000-2001 are marked as Ex.P11 to P16. Ex.P11 contains the Order of the Commissioner of Income Tax along with the returns filed by the 1st respondent. He has been held under Sec.115(B) and (C) of the Income Tax Act as 'non-resident Indian' and assessed as such. For the accounting year 1996-97, 1997-98, the same status continued up to the accounting year 2001-2002. PW2-Rajib Kumar De who is the Additional Commissioner of Income tax, Calcutta states on the basis of the records that Vijay Mallya is a citizen of India and that the filing of returns has nothing to do with the residence of a person. Thus what emerges from the evidence and Ex.P11-16 is that, 1st respondent declared himself as a non-resident Indian for claiming benefits under the Income Tax Act. On the question of his owing allegiance or adherence to any foreign country there is no evidence. Per contra the evidence is he is a citizen of India who had contested the elections to Rajya Sabha in the year 1999.

Article 102 is a constitutional disqualification for a person for being a member of either of the house of parliament if he is not a citizen of Indian or has voluntarily acquired the citizenship of foreign state or is under any acknowledgement of allegiance or adherence to foreign state.

There is no dispute that 1st respondent is a citizen of India nor is the case of the petitioner that he has acquired voluntarily citizenship of a foreign State. But, the only contention is that he is under an acknowledgement of allegiance or adherence to a foreign State.

The word 'allegiance' and 'adherence' has not been defined in the Constitution. Hence, Various dictionaries are referred for a proper understanding of the meaning of the said words. According to the Oxford dictionary 'allegiance' means "duty of a subject to sovereign or Government-loyalty.

In Blacks Law dictionary 7th Ed. 'allegiance' is defined as-

Allegiance: A citizen's obligation of fidelity and obedience to the Government or sovereign in return for the benefits of the protection of the state. Allegiance may be either an absolute and permanent obligation or a qualified and temporary one.

In The Words & Phrases Volume 3, the meaning of 'allegiance' is summarily stated by quoting various decisions and authors, as below:

By 'allegiance' is meant the obligation of fidelity and obedience which an individual owes to the Government under which he lives or to his sovereign in return for the protection he receives. Imbrie V Marsh, 68 A.2d 761, 763, 5 NJ Super 239.

The 'allegiance' contemplated by the Nationality Act is not to blood, race, or creed, but is the obligation of fidelity land obedience to the Government in consideration for protection that Government gives. US V. Kuhn, DCNY 49 F.Supp. 407, 414.

'Allegiance', as the term is generally used, means fealty or fidelity to the Government of which the person is either a citizen or subject. Murray V The Charming Betsy, 6 US 2 Cranch, 64, 120, 2 L.Ed. 208.

'Allegiance' was said by Mr. Justice Story to be 'nothing more than the tie or duty of obedience of a subject to the sovereign, under whose protection he is'. United States V Wong Kum AK, 18 S.Ct.456, 461, 169 US 649, 42 L.Ed. 890.

Allegiance is that duty which is due from every citizen to the state, a political duty binding on him who enjoys the protection of the commonwealth, to render service and fealty to the federal Government. It is that duty which is reciprocal to the right of protection, arising from the political relations between the Government and the citizen. Wallace V Harmstad, 44 Pa (8 Wright) 492, 501.

By 'allegiance' is meant the obligation to fidelity and obedience which the Individual owes to the Government under which he lives, or to his sovereign, in return for the protection which he receives. It may be an absolute and permanent obligation, or it may be a qualified and temporary one. A citizen or subject owes an absolute and permanent allegiance to his Government or sovereign, or at least until, by some open and distinct act, he renounces it and becomes a citizen or subject of another Government or sovereign, and an alien while domiciled in a country owes it a temporary allegiance, which is continuous during his residence. Carlish V United States, 83 US 147, 16 Wall 147, 154, 21 L.Ed. 426.

'Allegiance', as defined by Blackstone, 'is the tie or ligamen which binds the subject to the King, in return for that protection which the King affords the subject. Allegiance, both expressed and implied, is of two sorts, the one natural, the other local, the former being perpetual, the latter temporary. Natural allegiance is such as is due from all men born within the King's dominions immediately upon their birth, for immediately upon their birth they are under the King's protection. Natural allegiance is perpetual, and for this reason, evidently founded on the nature of Government. Allegiance is a debt due from the subject upon an implied contract with the prince that so long as the one affords protection the other will demean himself faithfully. Natural-born subjects have a great variety of rights which they acquire by being born within the King's allegiance, which can never be forfeited but by their own misbehaviour; but the rights of aliens are much more circumscribed, being acquired only by residence, and lost whenever they remove. If an alien could acquire a permanent property in lands, he must owe an allegiance equally permanent to the King, which would probably be inconsistent with that which he owes his natural liege lord; besides, that thereby the nation might, in time, be subject to foreign influence land feel many other inconveniences."

In Corpus Juris Volume 3A at Pg.251, 'allegiance' has been defined as "fealty or fidelity to the Government of which the person is either a citizen or subject, the duty which is due from every citizen to the State; a political duty, binding on him; who enjoys the protection of the commonwealth, to render service and fealty to the federal Government; the obligation of fidelity and obedience which the individual owes to the Government or to the sovereign under which he lives in return for the protection he receives; that duty which is reciprocal to the right of protection, arising from the political relations between the Government and the citizen."

'Adherence' has been defined by Oxford dictionary as 'stick fast to (substance)' give support to '(agreement, opinion, party)'; behave according to '(rules, plan, norms)'.

The word 'acknowledge' has been defined in the Shorter Oxford English dictionary as "to own the knowledge of, to confess, to admit as true, to recognise. Acknowledgement has been defined as the act of recognising the position or claims. A declaration or avowal of an act or document.

Websters Third International Dictionary defines the word 'acknowledgement' as 'recognise'. Indicate recognition and acceptance.

In the debates of the Constituent Assembly while introducing Art.102 (corresponding to draft Art.83) of the Constitution in the present form, the phrase 'or is under any acknowledgement of allegiance or adherence to a foreign state' is used in a sense 'akin to the relationship of a citizen of India with his Government' is clear by the statement of H.V. Kamath while debating on the amendment introduced by Dr. Ambedkar. The same is extracted herein and reads thus:

The Honourable Dr. B.R. Ambedkar : Mr. President, Sir, I move:

"That for sub-clause (d) of clause (1) of Article 83, the following be substituted:-

(e) If he has ceased to be a citizen of India, or has voluntarily acquired the citizenship of a foreign State, or is under any acknowledgement of allegiance or adherence to a foreign State and".

Sir, I am following the sound maxim which I laid down a few minutes ago that as far as possible, we might dispense with needless verbiage and try to be as brief as possible, of course, without sacrificing the meaning or significance or importance of an article, and to compress it into as few words as possible. Brevity is not merely the soul of wit; it is also the soul of truth. Here, I feel that in sub-clause (d) of article 83, the **first part is adequate to cover any circumstance arising out of the second part of sub-clause (d).** A person who is under any acknowledgement of allegiance or adherence to a foreign power, if he is disqualified, it stands to reason, it follows ipso facto that a person who is a subject or a citizen, which is a matter of graver moment than merely owing allegiance or adherence to a foreign power, must be disqualified. A subject or a citizen or one who is entitled to the rights or privileges of a subject or a citizen of a foreign power, certainly stands in a category which in comparison with the first part of the sub-clause of this article, is of more serious import. If we disqualify a person who merely owes allegiance or

adherence to a foreign power, we need not explicitly say that a subject or a citizen is disqualified. If one category is disqualified, in my humble judgement it must follow as the night doth the day, that a citizen or a subject must also be disqualified. I therefore move, in the interests of brevity and elimination of unnecessary verbiage, that this amendment be accepted (emphasis supplied by me).

Thus, by a reading of the definitions of the words 'allegiance', 'adherence' and 'acknowledgement' as defined by various dictionaries and the meaning given by Blackstone and the debates of the Constituent Assembly and also the companion words occurring in Art.102 of the Constitution, 'allegiance' of 'adherence' to a foreign State means, the subject must have a tie with foreign power in return of which he acknowledges his obedience or fidelity to the said foreign power, akin to the relationship of a citizen to his Government. In other words, in the words of Blackstone-"there exists an express or implied contract between the subject and the foreign power under which the latter would protect the former who in return demean himself faithfully" Normally every citizen of India as long as he continues as a citizen can be said to owe allegiance or adherence to Indian Government. However, when a dispute arises that such a person as in this case, owes allegiance to a foreign power, the burden is on the complainant to establish the said fact by evidence.

In this case petitioner except stating in her evidence that the 1st respondent owes allegiance and adherence to foreign country, no other evidence is adduced on this point. Besides, she has not even named the foreign country to which the 1st respondent owes allegiance. However, petitioner wants the court to hold the 1st respondent as owing allegiance or adherence only on the basis that 1st respondent is a 'non-resident Indian' and being a non-resident Indian, he has his business interests in foreign countries. What this contention over looks is the difference in being loyal to a foreign power and having business interests in a foreign country. The business interests by its very nature transcends territorial limits of a country and every citizen has a right to do business unless restricted by law. Therefore, the argument that a 'non-resident' Indian having business interests abroad should be held as owing allegiance or adherence to foreign power deserves to be rejected. If this argument fails, as stated, petitioner has not adduced any other evidence to prove that 1st respondent owes allegiance or adherence to a foreign power. The petitioner therefore has miserably failed to prove that 1st respondent owes allegiance to foreign power. Hence, the issue is answered that holding that the petitioner has failed to prove that 1st respondent owes allegiance or adherence to any foreign country suffering a disqualification under Art.102(1)(d) of the Constitution.

Issue No.7:

The burden of proving this issue is on the 1st respondent. Sec.83(c) of the Representation of Peoples Act, 1951 states that an election petition shall be signed by the petitioner and verified in the manner laid down in the Civil Procedure Code for the verification of the pleadings. The proviso states where any corrupt practice is alleged, the petition shall be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof. In this case, every page of the election petition has been signed by the petitioner and the verification column of the petition reads as under:

"I Smt D.K. Taradevi Sidhartha, W/o Sri Sidhartha Reddy, the petitioner herein do hereby declare that the statements in paras 1,2,3,4,5,6,10,11,12,13,14 are true to my personal knowledge, and the statements made in paras 7,8,9 are true to the best of my information, which I reasonably believe to be true, to the best of my knowledge and belief."

Order 6 Rule 15, CPC provides that every pleading should be verified at the foot by the party and the person verifying shall specify, by reference to numbered paragraphs of pleadings, what he verifies of his own knowledge and what he verifies upon information received and believed to be true. Thus, a reading of the verification column of the election petition and Order 6 Rule 15, CPC and Sec.83 of the RP Act, 1951, it is clear that the election petition has been verified in accordance with the above provisions. Hence, the issue is answered in favour of the election petitioner.

Issue No.8:

No evidence has been adduced on this issue to show that a true copy of the election petition was not served nor the copy served on the respondent is marked. Hence, this issue also is answered in favour of the petitioner.

Issue Nos.9,10 and 11:

'These issues are taken together: The result of the election was declared on 27.3.2002. Under Sec.81(1) of the Representation of Peoples Act, 1951, an election petition has to be filed within 45 days from the date of election of the returned candidate. This election petition was presented on 9.5.2002. On the said day, the Registrar (Judicial) of this Court returned the petition with the endorsement "seen and returned to the petitioner - Sd/- by the Registrar date: 9.5.2002" Later, it was presented by the petitioner at 4.10 p.m. on 27.5.2002 which was accepted by the Registry of this Court. Since the election petition was accepted on 27.5.2002, the contention of the 1st respondent is that the election petition must be held to have been presented beyond 45 days, therefore, the Election Petition is barred by time.

In answer to the submission of Sri G.S. Visveshwara, learned counsel for the Election Petitioner submitted that, that by a notification issued by the High Court of Karnataka, the High Court remained closed for summer vacation from 22.4.2002 to 26.5.2002 (bdi). Since the election petition was filed during

summer vacation within the period of limitation and it was returned to be presented on the re-opening day, the same was filed on the re-opening day i.e., on 27.5.2002, hence, having regard to the notification and Sec.10 of General Clauses Act, the Election Petition filed on 27.5.2002, should be held in time. The contention deserves to be accepted.

High Court of Karnataka has issued notification No.HCBB-95 dated: 17.4.2002, the same reads as under:

HIGH COURT OF KARNATAKA, BANGALORE
NOTIFICATION No. HCBB 95/2003, DATED: 17.4.2002
SUMMER VACATION OF 2002

The High Court will remain closed for Summer Vacation from Monday the 22nd April, 2002 to Sunday the 26th May, 2002 (both days inclusive)

No appeals, petitions or applications of civil nature will be received during the vacation except in cases where it is sought to obtain urgent interim orders like temporary injunction, attachment and/or stay of proceedings.

Criminal appeals, criminal revision petitions and urgent applications in criminal matters will be received during the summer vacation.

During the summer vacation, the office of the High Court will remain open from 10.15 a.m. to 2.00 p.m. from Monday to Friday (both days inclusive) in each week. Saturdays will not be working days during the Summer Vacation. Papers will be received from 10.30 a.m. to 12.30 p.m. on the days on which the office will be open. On the vacation sitting days, the working hours of the office shall be from 10.15 a.m. to 5.00 p.m.

Vacation Benches mentioned hereunder will sit in Court Halls mentioned against them on the SITTING DAYS noted below at 10.30 a.m. during the vacation to hear urgent matters. All matters of the nature referred to above filed unto and inclusive of the day previous to the sitting day will be posted for hearing. But those filed on the sitting day will not be posted on that day, except by special orders of the vacation Bench of the Vacation Judge, as the case may be.

What emerges from the reading of the notification is, no petition could be filed in the High Court unless the petitioner sought for urgent orders like stay, injunction, etc. The election petition is certainly a petition within the meaning of the notification and admittedly in this case, the election petitioner had not sought for any urgent interim orders. According to Sec.81 of the RP Act, 1951, the petitioner should have filed the election petition on 9.5.2003 on the last date for filing the same which of course she did, but the Rigistrar (Judicial) returned it on the ground that the court was closed for summer vacation. As per the notification, the courts reopened on 27.5.2002. Admittedly, the Election Petition was filed on 27.5.2002 i.e. the reopening day which the petitioner was entitled to file to save limitation having regard to Sec.10 of the General Clauses Act, 1897 which reads:

Sec.10: Computation of time:-

1. Where by any Central Act or regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceedings shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open.
   Provided that nothing in this Section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 applies.
2. This section applies also to all central Acts and Regulations made on or after the fourteenth day of January, 1887.

However, Sri Udaya Holla, learned counsel for 1st respondent made a submission, relying on the decision of this Court in Narayanappa Vs Shankar Alva - AIR 1973 Mysore 78 and that of the Supreme Court in Laxman Das Arora Vs Ganeshi Lal & Ors - 1999 (8) SCC 532 that the election petitioner is not entitled to the benefit of Sec.10 of the General Clauses Act in the facts of this case. Let me refer to the said decision to know how far it advances the case of the 1st respondent.

In Naranappa's case, the petitioner Naranappa had challenged the election of Shankar Alva by filing a petition under Sec.81 and 83 of the RP Act. The results of the election was declared on 12.3.1972 and the Election Petition was filed on 28.4.1972. A preliminary objection was taken about the maintainability of the petition on the ground that the petition was filed beyond 45 days. While considering the question of delay, the court was called upon to consider the notification issued by the Chief Justice under Sec.23(2) of the Mysore High Court Act. 1884. As per the notification, the Karnataka High Court was recessed for summer vacation from 17.4.1972 to 21.5.1972. The notification read as follows: "election petitions presented to the High Court under Sec.81 of the RP Act, 1951 will however be received during the vacation." This Court held that in view of the said declaration made in the notification, the defeated candidate was entitled to file the election petition even during summer vacation when the court was closed. Under the circumstances, the petitioner was not entitled to take the aid of Sec.10 of the General Clauses Act.

In Laxman Das Arora's case, the Supreme Court while considering a similar question on limitation in P. Naranappa's case interpreting the notification issued by Punjab 7 Haryana Court which is to the

following effect: "It is hereby notified for general Information that the Court of Punjab & Haryana at Chandigarh will be closed for civil business except for hearing election petitions or any other matter arising out of Representation of Peoples Act, 1951 ....the Court will resume sitting on 1.7.1996, held there was no impediment on a defeated candidate to file the election petition during the summer vacation declared by the Punjab & Haryana High Court. Hence, Sec.10 of the General Clauses Act did not come to his rescue." But the facts in this case are quite different. In this case, the notification referred to above specifically prohibited filing of all petitions, the exception being made only to criminal appeals or criminal revision petitions. Election petition cannot be considered as a criminal appeal or criminal revision petition so as to contend that the notification permitted the election petition to be filed during summer vacation.

In view of the prohibition in the notification for filing election petitions during summer vacation, the election petitioner was entitled to take the aid of Sec.10 of the General Clauses Act and the election petition filed on the re-opening day on 27.5.2002, should be held as filed within time. Hence, the issue is answered in favour of the election petitioner.

Issue No.9: The records reveal that the cost as required under Sec.117 of the Representation of Peoples Act has been deposited on 27.5.2002. Therefore, there is it has to be held that the election petitioner has complied with the requirements of Sec.117 of the Representation of Peoples Act. The issue is answered accordingly, in favour of the petitioner.

For the reasons stated above, and in view of the findings on all issues, the election petition deserves to be dismissed and is dismissed with costs of Rs.15,000/-. (Rupees Fifteen thousand only). The security deposit of Rs.2,000/- deposited on 27.5.2002 is ordered to be paid to 1st respondent towards the costs ordered to be paid.

IN THE HIGH COURT OF KARNATAKA AT BANGALORE
DATED THIS THE 20TH DAY OF NOVEMBER 2003
BEFORE
THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR
ELECTION PETITION NO.2/2002

BETWEEN:
Smt D.K. Tharadevi Siddhartha W/o Siddhartha Reddy
R/a "Krishna Ashraya" Mudigere, Chikmagalur-577 132 PETITIONER
(By Sri G.S. Visveshwara for Sri Aravind Kumar, Adv.)

And

1. Dr. Vijaya Mallya S/o late Vittal Mallya
   R/a # 3, Vittal Mallya Road, Bangalore.
2. Sri Janardhana Poojary S/o Jarappa Poojary
   R/a Channamma Kutira, B.C. Road, Bantwal Taluk, D.K. District.
3. Smt Prema Cariappa W/o I.M. Cariappa
   R/a # 33/4, Thyagaraj Layout, Maruthi Sevanagar, Bangalore-33.
4. Sri M.V. Rajashekaran S/o Veerashetty
   R/a # 20/1, Kanakapura, Basavanagudi, Bangalore-4. RESPONDENTS

(By Sri Udaya Holla for Sri S.R. Shivaprakash Adv., For R-1; R-2 to 4 are placed exparte)

This Election Petition is filed U/s 81 of the Representation of the People Act, 1951, by the petitioner candidate for the Biennial-election to the Council of State 2002 for Rajya Sabha held on 27.3.2002 praying that this Hon'ble Court may be pleased to;

1. Declare that the election of the 1st respondent as contained in Annexure 'J' declaring the 1st respondent as duly elected to the council of states as void under section 100 (1) (a) and Section 100(1) (d) (i) of Representation of Peoples Act, 1951 and
2. Declare the petitioner as the elected candidate to the Council of States in the place of the first respondent; and
3. Grant such other relief as deemed fit by this Hon'ble Court having regard to the facts & circumstances of the Case, in the interest of justice and equity.

This Election Petition coming on for evidence from 16/12/2002 to 7/3/2003 and for arguments between 13/3/2003 to 7/10/2003 and for pronouncement of order on 20/11/2003, in the presence of Sri G.S. Visveshwara for Sri Arvind Kumar, Advocates for petitioner and Sri Udaya Holla for Sri S.R. Shivaprakash, Advocates for respondent No.1 and respondent Nos.2 to 4 are placed exparte vide Court order dated: 11/7/2002 and that for the reasons stated in the order, it is ordered and decreed that the election petition be and the same is hereby dismissed with costs of Rs.15,000/- (Rupees fifteen thousand only). And the Security deposit of Rs.2000/- deposited by the petitioner on 27/5/2002 is ordered to be paid to the First respondent towards the costs ordered by this Hon'ble Court.

BY ORDER
P.R. 68 **A.K. MAJUMDAR**
SECRETARY.